

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

1:04-CR-479

JONATHAN BALL,

Defendant.

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APPEARANCES:

OF COUNSEL:

Alexander Bunin  
Federal Public Defender  
39 North Pearl Street  
Albany, New York 12207

Paul Evangelista, Esq.  
Asst. Federal Public Defender

ANDREW T. BAXTER  
United States Attorney  
Northern District of New York  
James T. Foley U.S. Courthouse  
445 Broadway  
Albany, New York 12207

Edward P. Grogan, Esq  
Assistant U.S. Attorney

**NORMAN A. MORDUE, Chief U.S. District Judge**

MEMORANDUM-DECISION AND ORDER

On May 25, 2005, defendant was sentenced to 46 months imprisonment and three years of supervised release as a result of his conviction on a class D felony. On January 3, 2008, defendant was sentenced to 366 days of incarceration and two years of supervised release as a result of a violation of supervised release. On September 10, 2009, as a result of a second violation of supervised release, this Court sentenced defendant to 8 months incarceration and 24 months of supervised release. Upon motion of defense counsel to correct defendant's sentence pursuant to Fed. R. Crim. P. 35(a), and upon further review of 18 U.S.C. 3583(h) and *United States v. Knight*,

--- F. 3d ----, 2009 WL 2767189 (9th Cir. Sept. 2, 2009), the Court has recognized a clear error concerning the supervised release portion of defendant's sentence. Specifically, because defendant has been sentenced to 20 months and one day on his two supervised release violations, the Court must subtract this time from the additional term of supervised release imposed on September 10, 2009. Consequently, the maximum additional term of supervised release defendant may be ordered to serve based on his latest violation is 16 months less one day.

**WHEREFORE**, it is hereby

**ORDERED** that defendant's motion to correct his sentence is hereby **GRANTED**; and it is further

**ORDERED** that an amended judgment shall issue in accordance with the terms of this memorandum-decision and order.

IT IS SO ORDERED.

Dated: September 29, 2009  
Syracuse, New York

  
Norman A. Mordue  
Chief United States District Court Judge